SUBJECT INDEX.

PAGE

Statement of the case 1

Brief of the argument 3

Argument 4

I.

No federal question is presented by the psychopathic and incompetency proceedings in the state court 4

II.

Matters relating to property within the state and the question of the validity and construction of contracts made in and to be performed within the state are solely within the jurisdiction of the highest state court and present no federal question 6

Appendix "A"—Decision of the Supreme Court of California in Catherine M. Carroll, appellant, v. Raymond A. Carroll et al., defendants; The Prudential Insurance Company of America, a corporation, et al., respondents 9

TABLE OF AUTHORITIES CITED.

CASES. PAGE

American Railway Express Co. v. Kentucky, 273 U. S. 269, 47 S. Ct. 353, 71 L. Ed. 639 5

Atlantic Coast Lumber Corporation v. Minshew, 235 U. S. 685, 35 S. Ct. 202, 59 L. Ed. 424 7

Chaloner v. Sherman, 242 U. S. 455, 37 S. Ct. 136, 61 L. Ed. 427 4

Chicago and Alton R. R. Co. v. Wiggins Ferry Co., 119 U. S. 615, 7 S. Ct. 398, 30 L. Ed. 519 6

Commercial Publishing Co. v. Beckwith, 188 U. S. 567, 23 S. Ct. 382, 47 L. Ed. 598 7

Guaranty Trust Co. v. Blodgett, 287 U. S. 509, 53 S. Ct. 244, 77 L. Ed. 463 5

Huse, In re (C. C. A. 9th) 25 C. C. A. 1, 79 Fed. 305 4

Iowa v. Rood, 187 U. S. 87, 23 S. Ct. 49, 47 L. Ed. 86 6

James v. Appel, 192 U. S. 129, 24 S. Ct. 222, 48 L. Ed. 377 7

Joy v. St. Louis, 201 U. S. 332, 26 S. Ct. 478, 50 L. Ed. 776 6

Lehigh Water Co. v. Easton, 121 U. S. 388, 7 S. Ct. 916, 30 L. Ed. 1059 6

Luckenbach Steamship Co. v. United States, 272 U. S. 533, 47 S. Ct. 186, 71 L. Ed. 394 7

Marten v. Holbrook, 157 Fed. 716 4

Minnesota ex rel. Pearson v. Probate Court, 309 U. S. 270, 60 S. Ct. 523, 84 L. Ed. 744 ..... 4, 5

Ohio ex rel. Bryant v. Akron Metropolitan Park District, 281 U. S. 74, 50 S. Ct. 228, 74 L. Ed. 710 7

Pennington v. Fourth National Bank, 243 U. S. 269, 37 S. Ct. 282, 61 L. Ed. 713 6

Pittsburg, C. C. & St. L. R. Co. v. Backus, 154 U. S. 421, 14 S. Ct. 1114, 38 L. Ed. 1031 7

PAGE

Security Savings Bank v. California, 263 U. S. 282, 44 S. Ct. 108, 68 L. Ed. 301 6

Selover, Bates & Co. v. Walsh, 226 U. S. 112, 33 S. Ct. 69, 57 L. Ed. 146 6

Shapley v. Cohoon, 258 Fed. 752 ..... 4, 5

Slight v. Kirkwood, 237 U. S. 52, 35 S. Ct. 501, 59 L. Ed. 835 4

Stadelman v. Miner, 246 U. S. 544, 38 S. Ct. 359, 62 L. Ed. 875 6

Tidal Oil Co. v. Flanagan, 263 U. S. 444, 44 S. Ct. 197, 68 L. Ed. 382 7

Wilson v. Carroll, 79 Fed. (2d) 1022 2

Wilson v. Carroll, 297 U. S. 707 2

STATUTES.

Code of Civil Procedure, Sec. 1763 5

Code of Civil Procedure, Sec. 1764 5

Code of Civil Procedure, Sec. 1765 5

Code of Civil Procedure, Sec. 1766 5

Code of Civil Procedure, Sec. 1767 5

Political Code, Sec. 2167 5

Political Code, Sec. 2168 5

Political Code, Sec. 2169 5

IN THE

Supreme Court of the United States

October Term, 1941.

No. 176.

CATHERINE M. CARROLL,

Petitioner,

vs.

RAYMOND A. CARROLL,

Defendant,

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a corporation; THOMAS MORTGAGE COMPANY, a corporation; TITLE INSURANCE AND TRUST COMPANY, a corporation; H. B. THOMAS as Substituted Trustee; and H. B. THOMAS, Individually,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

Statement of the Case.

A statement of the facts of this case is concisely and at the same time adequately set forth in the opinion of the Supreme Court of the State of California, filed December 21, 1940, reported in 16 C. (2d) 761, 108 Pac. (2d) 420.

Petitioner has included a copy of the opinion as an appendix to her brief, but, as petitioner's record and brief herein are not being printed, respondents, for the convenience of the Court, print such opinion as Appendix "A" to this brief.

This case was commenced by the filing of complaint in the Superior Court of the State of California, in and for the County of Los Angeles, May 16, 1933.

The same plaintiff, under the title of Catherine Wilson, etc., in October of 1933 filed a bill in the District Court of the United States, in and for the Southern District of California, Central Division, entitled *Catherine Wilson, etc., v. Raymond A. Carroll, et al.,* No. Equity 29-M, naming as defendants these respondents, and the same persons who are named as defendants in this action. Motion to dismiss, on the ground that the bill of complaint presented no substantial federal question, was granted after plaintiff had been given three opportunities to amend; and the judgment entered dismissing the Bill of Complaint was appealed from and affirmed by the United States Circuit Court of Appeals for the Ninth Circuit (*Wilson v. Carroll,* 79 Fed. (2d) 1022 (U. S. C. C. A. 9th Cir., No. 7792), and petition for writ of *certiorari* was denied by this Court (*Wilson v. Carroll,* 297 U. S. 707, October Term, 1935, No. 635).

This action in the State Court, which had been pending awaiting the outcome of the Equity action in the Federal Courts, was tried in April of 1936, and the judgment appealed from and affirmed by the Supreme Court of the State of California was entered December 16, 1936. As the parties and the transactions involved are the same in both actions, the judgment in Equity case No. 29-M determined that no substantial Federal question is presented by the pleadings.

Hence the only Federal question which can be involved in the instant case is whether due process of law was denied petitioner by the courts of the State of California in the trial of this action.

Brief of the Argument.

I.

The care of the mentally sick and incompetent is a matter solely of State concern, and does not present a Federal question unless the proceedings do not comply with the requirements of the Federal Constitution.

II.

The determination of matters regarding property within the State and the validity and construction of contracts is, in the absence of special circumstances not present in this action, solely within the jurisdiction of the State Courts.

ARGUMENT.

I.

No Federal Question Is Presented by the Psychopathic and Incompetency Proceedings in the State Court.

The State, as *parens patriae,* may adopt whatever procedure it may desire for the care of the mentally sick; and the decision of the State Court as to proceedings under its statutes is binding on the Federal Courts. That the State may provide for the treatment, and, if necessary, for the confinement of the mentally sick and insane, is well establshed.

In *re Huse,* C. C. A., 9th Cir., 25 C. C. A. 1, 79 Fed. 305;

Marten v. Holbrook, 157 Fed. 716;

Shapley v. Cohoon, 258 Fed. 752, 755.

Such power is clearly within the police power of the State.

Slight v. Kirkwood, 237 U. S. 52, 35 S. Ct. 501, 59 L. Ed. 835;

Minnesota Ex Rel. Pearson v. Probate Court, 309 U. S. 270, 60 S. Ct. 523, 84 L. Ed. 744;

Chaloner v. Sherman, 242 U. S. 455, 37 S. Ct. 136, 61 L. Ed. 427.

The sufficiency of proceedings and the construction of State statutes is a matter of State law, and the decision of the highest State Court thereon is binding on the Fed-

eral Courts unless the prescribed proceedings do not provide for due process of law.

Shapley v. Cohoon, 258 Fed. 757;

Minnesota Ex Rel. Pearson v. Probate Court, supra, p. 273;

American Railway Express Co. v. Kentucky, 273 U. S. 269, 47 S. Ct. 353, 71 L. Ed. 639;

Guaranty Trust Co. v. Blodgett, 287 U. S. 509, 53 S. Ct. 244, 77 L. Ed. 463.

Petitioner has cited and can cite no case placing a different construction on the effect of a so-called insanity proceeding under Sections 2167-2169 of the Political Code of California than given to such proceedings by the Supreme Court of the State of California in the instant case. Hence the specifications of alleged error as to the pendency of the psychopathic proceedings are without merit.

The same rule applies to the proceedings declaring a person incompetent to care for his property, taken under the provisions of Sections 1763 to 1767 of the Code of Civil Procedure of the State of California. The decision of the Supreme Court of the State of California in the instant case construes the provisions of State law applicable to such proceedings, and its determination as to the restoration to capacity of petitioner thereunder is binding on this Court.

Petitioner does contend that the applicable Code provisions were not complied with or did not provide for due process of law. Notice, a hearing, and personal appearance at the hearing are required both in the psychopathic and incompetency proceedings.

II.

Matters Relating to Property Within the State and the Question of the Validity and Construction of Contracts Made in and to Be Performed Within the State Are Solely Within the Jurisdiction of the Highest State Court and Present No Federal Question.

The determination of matters regarding property in the State is, in the absence of special circumstances, solely within the jurisdiction of the State Courts.

Pennington v. Fourth National Bank, 243 U. S. 269, 37 S. Ct. 282, 61 L. Ed. 713;

Security Savings Bank v. California, 263 U. S. 282, 44 S. Ct. 108, 68 L. Ed. 301;

Stadelman v. Miner, 246 U. S. 544, 38 S. Ct. 359, 62 L. Ed. 875;

Iowa v. Rood, 187 U. S. 87, 23 S. Ct. 49, 47 L. Ed. 86;

Joy v. St. Louis, 201 U. S. 332, 26 S. Ct. 478, 50 L. Ed. 776.

The State Law enters into and governs a contract made within and to be performed within the State, and this Court has no jurisdiction to review the decision of the highest court of the State on the question of the validity or construction of a contract even if the decision be erroneous.

Selover, Bates & Co. v. Walsh, 226 U. S. 112, 33 S. Ct. 69, 57 L. Ed. 146;

Chicago and Alton R. R. Co. v. Wiggins Ferry Co., 119 U. S. 615, 7 S. Ct. 398, 30 L. Ed. 519;

Lehigh Water Co. v. Easton, 121 U. S. 388, 7 S. Ct. 916, 30 L. Ed. 1059;

Commercial Publishing Co. v. Beckwith, 188 U. S. 567, 23 S. Ct. 382, 47 L. Ed. 598;

Atlantic Coast Lumber Corporation v. Minshew, 235 U. S. 685, 35 S. Ct. 202, 59 L. Ed. 424.

This is true even though the decision reverses prior decisions of the State Court.

Tidal Oil Co. v. Flanagan, 263 U. S. 444, 44 S. Ct. 197, 68 L. Ed. 382.

Petitioner does not contend that she did not have a fair trial with full opportunity to present all of her evidence, or that she was deprived of any right by the trial court, whose judgment was affirmed by the Supreme Court of the State. She complains that the Supreme Court did not grant her a rehearing as to her contention that the deed of trust was rescinded. Under the above cases, rescission is clearly a matter of State law, and the issue was presented both to the trial court and the Supreme Court. [Tr. pp. 54-56, 58, 59], and rehearing and new trial, or even the right of appeal, is not essential to due process of law where due process of law was accorded the litigant in the court of first instance.

James v. Appel, 192 U. S. 129, 24 S. Ct. 222, 48 L. Ed. 377;

Pittsburg, C. C. & St. L. R. Co. v. Backus, 154 U. S. 421, 14 S. Ct. 1114, 38 L. Ed. 1031;

Luckenbach Steamship Co. v. United States, 272 U. S. 533, 47 S. Ct. 186, 71 L. Ed. 394;

Ohio Ex Rel. Bryant v. Akron Metropolitan Park District, 281 U. S. 74, 50 S. Ct. 228, 74 L. Ed. 710.

The finding of the trial court that petitioner received none of the proceeds of the deed of trust attacked in this action was necessary to the accounting with her former husband and to sustain the money judgment against him, but it does not follow that there was no consideration for the note. There is not a word in the testimony showing that the letter directing payment [Exhibit "C", Tr. p. 28] was delivered before petitioner was restored to competency; and petitioner entirely overlooks Exhibit "D" [Tr. p. 39], dated August 27, 1929, four days after her restoration to capacity, directing payment of the full proceeds of the loan to her husband. There is not a hint in the complaint that petitioner executed the deed of trust through mistake, the only allegations being that the deed of trust was executed because of duress and fraud; and the trial court found that defendants loaned the money upon the faith of the deed of trust in good faith, and were wholly innocent of any fraud, duress, or oppression.

Respondents submit that no Federal question is presented by the petition herein, and that such petition should be denied.

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